

1 **ENTERED**

2 **MAY 26 2006**

3 Marion County Circuit Court

STATE OF OREGON
MARION COUNTY Circuit Courts

MAY 24 2006

FILED

4
5
6
7
8 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**

9 **FOR THE COUNTY OF MARION**

10 **WILLABYS CATERING, INC., an**)
Oregon corporation,)

11)
12 Plaintiff,)

13 vs.)

14 **CHUCK and SALLY SIDES,**)

15 Defendants.)

Case No. 06C-11833

**FIRST AMENDED
COMPLAINT
(Breach of Contract)**

(\$10,000.00 or less)

16 **CLAIM FOR RELIEF**

17 **(Breach of Contract)**

18 **For its CLAIM FOR RELIEF against Defendants Chuck and Sally Sides,**
19 **Plaintiff Willabys Catering, Inc. (hereafter referred to as "Willabys") alleges:**

20 1.

21 At all material times herein, Willabys is now and has been a corporation duly
22 organized and existing under the laws of the state of Oregon.

23 ///

2.

At all material times herein, Defendants Chuck and Sally Sides were and are residents of the state of Oregon.

3.

Willabys and Chuck and Sally Sides entered into a written agreement pursuant to which Willabys would provide catering services to Chuck and Sally Sides. A copy of that written agreement is attached hereto as **Exhibit A** and incorporated herein by this reference. Pursuant to that agreement, Chuck and Sally Sides were to pay Willabys \$13,541.00.

4.

Chuck and Sally Sides paid \$6,000.00 toward the balance due, but could not pay the balance. As a result, the parties entered into a Second Agreement. Pursuant to the Second Agreement, Chuck and Sally Sides were to provide the following services as consideration for the balance due: demolition and removal of approximately 1,100 square feet of lathe and plaster walls; hang, tape and texture sheetrock on approximately 1,100 square feet; hang, tape and texture sheetrock on approximately 1,040 square feet in a new addition. Chuck and Sally Sides were to provide all labor and materials and, in addition, provide site cleanup. A copy of the Second Agreement is attached hereto as **Exhibit B** and incorporated herein by this reference.

5.

Willabys fulfilled each and every obligation under the Agreements.

///

///

6.

Chuck and Sally Sides provided some, but not all, of the work required under the Second Agreement. Some of the work performed, was performed below industry standards.

7.

As a result of Chuck and Sally Sides failure to perform under the Second Agreement, Willabys has been damaged in the amount of \$4,791.00, together with interest thereon at the rate of nine percent (9%) per annum from March 5, 2005, until paid, together with attorney fees allowable under ORS 20.082, or, in the alternative, attorney fees allowable under ORS 46.465(4)(a).

WHEREFORE, Plaintiff demands judgment as follows:

1. For its Claim for Relief, damages against Defendants Chuck and Sally Sides, jointly and severally in the sum of \$4,791.00, plus interest thereon at the rate of nine percent (9%) per annum from March 5, 2005, until paid together with its attorney fees costs and disbursements.

2. Any other relief this Court may deem just and proper.

DATED this 23rd day of May, 2006.

SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

By: _____

Gina Anne Johnnie, OSB #87263
Of Attorneys for Plaintiff
Trial Attorney: Same

ORIGINAL CATERING CONTRACT



Willaby's Catering, Inc

Event Contract

Client/Organization Sides, Sally	Event Date 3/5/2005 (Sat)	Party Name GR-Sides/Bailey	Booking Contact Sally Sides	Event # E02198
Address 2555 Hollywood Dr NE, Salem, Or 97305		Telephone (503) 585-9208	Fax	Guests 300 (Pln)

Ten (10) working days prior to your event, we will need to have your final guarantee number of guests. This final number will be used to purchase fresh ingredients for our kitchen production, order equipment and arrange for the proper number of staff. Once you give us your guarantee, you may only increase your count. An additional charge can be assessed if you increase your guarantee within 48 hours of your event.

BANQUET TIMES

Banquet Room	Setup Style	Arrival	Start	Bar	Serving	End	Room Chg
Great Room	Reception w/Dance		3:30 pm		4:00 pm	8:30 pm	\$650.00

FOOD/SERVICE ITEMS

Food/Service Item(s)	Price	Qty	Total
Colors: Chocolate Brown and Raspberry Menu board in lobby for explanation			
Italy Station Square White Plates Grilled Chicken Alfredo Garlic Chicken Lasagna Assorted Pizzettes Antipasti Salad Fresh Baked Gorgonzola Focaccia	32.50	300	9,750.00
Northwest Station Crab Cakes with Assorted Dipping Sauces Poached Salmon Seafood Stuffed Mushroom Caps Beef Skewers drizzled with Walnut Gorgonzola Wild Greens with Poached Pears and Hazelnuts			
European Station Assorted Imported Cheeses Roasted Red Pepper Torta Brie en Croûte Produce basket featuring Regional Vegetables Marinated Vegetables Herb Spiced Chevre Logs Smoked Salmon Pate Raspberry Lemonade Assorted Petit Fours out by Coffee Station			
She Designs bringing candy station, linens and napkins Perfect Cup Espresso 3:30 to 7:30 Espresso, Hot Chocolate, Chai Tea and Italian Sodas 200 drinks included, each additional @ \$1.00	550.00	1	\$50.00

3.5.05

E02198 - Sides, Sally

Banquet Captain	20.00	6	120.00
Service Staff 8	120.00	6	720.00

Beverage Station Disposable
 Square White Plates
 Clear Water Goblets Placed on Table
 Elegant Plasticware at Cake Table

Room Charge 650.00

Subtotal	\$11,790.00
17% Service Charge	\$1,751.00
Payments	\$0.00
Balance Due	\$13,541.00

At present, this proposal is based on a guarantee of 300 and all other items included. The price on this proposal is based and calculated on these arrangements. If these arrangements are changed, the prices could change. If additional guests are served on the day of the event you will be billed accordingly.

This is an estimate. Your final charges may vary depending on final guarantee, rentals, hours of service and other changes to be made.

We select the finest ingredients. We reserve the right to make necessary alterations to the menu based on availability and quality.

A \$500.00 non-refundable booking fee is required along with a signed copy of this contract in order to hold your event date. A 75% deposit of estimated costs is required 60 days prior to your event. Final payment of estimated costs is due 10 days prior to event. A separate invoice will be mailed after your event if additional costs are incurred the night of event. (e.g. additional alcohol, guests, or staffing)

Final payment is due upon receipt of final invoice. A credit card is required to guarantee your event and will be charged for the balances still outstanding at 10 days after event. A finance charge may also be assessed of 1.5% on unpaid balances monthly.

Visa/Mastercard/American Express:

3739 616 256 9003 exp 06/08 Name on card: Sally Sides

Accepted by: Sally A. Sides Date: 1/13/2005
 client signature

BARTER AGREEMENT



Willaby's Catering, Inc Event Contract

Client/Organization Sides, Sally	Event Date 3/5/2005 (Sat)	Party Name GR-Sides/Bailey Receptio	Booking Contact Sally Sides	Event # E02198
Address 2555 Hollywood Dr NE, Salem, Or 97305		Telephone (503) 585-9208	Fax	Guests 310 (Pln)

Ten (10) working days prior to your event, we will need to have your final guarantee number of guests. This final number will be used to purchase fresh ingredients for our kitchen production, order equipment and arrange for the proper number of staff. Once you give us your guarantee, you may only increase your count. An additional charge can be assessed if you increase your guarantee within 48 hours of your event.

BANQUET TIMES							
Banquet Room	Setup Style	Arrival	Start	Bar	Serving	End	Room Cha
Great Room	Reception w/Dance		3:30 pm		4:00 pm	8:30 pm	

FOOD/SERVICE ITEMS			
Food/Service Items	Price	Qty	Total

Colors: Chocolate Brown and Raspberry
Menu board in lobby for explanation

Italy Station: Square White Plates	6,000.00	1	6,000.00
Grilled Chicken Alfredo			
Garlic Chicken Lasagna			
Assorted Pizzettes			
Antipasti Salad			
Fresh Baked Gorgonzola Focaccia			

Northwest Station
Crab Cakes with Assorted Dipping Sauces
Poached Salmon
Seafood Stuffed Mushroom Caps
Beef Skewers drizzled with Walnut Gorgonzola
Wild Greens with Poached Pears and Hazelnuts

European Station
Assorted Imported Cheeses
Roasted Red Pepper Torta
Brie en Croute
Produce basket featuring Regional Vegetables
Marinated Vegetables
Herb Spiced Chevre Logs
Smoked Salmon Pate
Raspberry Lemonade
Assorted Petit Fours out by Coffee Station

She Designs bringing candy station, linens and napkins
"Paid by Cindy Bailey"
Perfect Cup Espresso 3:30 to 7:30
Espresso, Hot Chocolate, Chai Tea and Italian Sodas

3/1/2005 10:09 am

Willaby's Catering
183 High Street NE, Suite B, Salem OR 97301 - t: (503) 371-7815 f: (503) 389-2134
Willabyscatering.com - Email: events@willabyscatering.com

1 of 3

Exhibit B of 4
Page 2 of 4

200 drinks included, each additional @ \$1.00

Banquet Captain 6
Service Staff 8 6

Beverage Station Disposable
Square White Plates
Clear Water Goblets Placed on Table
Elegant Plasticware at Cake Table

Trade Out Agreement
Project start 4-1-05

Demo and remove approx. 1100 sq ft of the current lathe and plaster walls
Hang, Tape and Texture Sheetrock approx 1100 sq ft
Hang, tape and Texture Sheetrock on new addition approx. 1040sq ft
All Labor and Materials
Site Clean up **we will provide dumpster**

PAYMENTS MADE

Payment	Date	Method
0.00	12/17/2004	Ck, C/C, Or Cash
0.00	1/12/2005	Ck, C/C, Or Cash
0.00	1/17/2005	Ck, C/C, Or Cash
0.00	1/17/2005	Ck, C/C, Or Cash
0.00	1/21/2005	Ck, C/C, Or Cash

Subtotal \$6,000.00
17% Service Charge \$0.00
Payments \$0.00
Balance Due \$6,000.00

At present, this proposal is based on a guarantee of 310 and all other items included. The price on this proposal is based and calculated on these arrangements. If these arrangements are changed, the prices could change. If additional guests are served on the day of the event you will be billed accordingly.

This is an estimate. Your final charges may vary depending on final guarantee, rentals, hours of service and other changes to be made.

We select the finest ingredients. We reserve the right to make necessary alterations to the menu based on availability and quality.

A \$500.00 non-refundable booking fee is required along with a signed copy of this contract in order to hold your event date. A 75% deposit of estimated costs is required 60 days prior to your event. Final payment of estimated costs is due 10 days prior to event. A separate invoice will be mailed after your event if additional costs are incurred the night of event. (e.g. additional

E02198 - Sides, Sally

alcohol, guests, or staffing)

Final payment is due upon receipt of final invoice. A credit card is required to guarantee your event and will be charged for the balances still outstanding at 10 days after event. A finance charge may also be assessed of 1.5% on unpaid balances monthly.

Visa/Mastercard/American Express:

_____ exp _____ Name on card: _____

Accepted by:

client signature

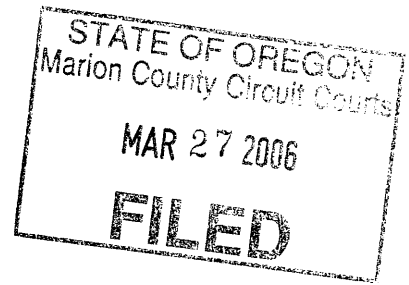
Date:

3-1-05

STATE OF OREGON
MARION COUNTY COURTS

APR 05 2006

ENTERED #8



IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

WILLABYS CATERING, INC., an
Oregon Corporation,

Plaintiff,

v.

CHUCK AND SALLY SIDES,

Defendants.

Case No. 06C-11833

**ANSWER AND AFFIRMATIVE
DEFENSE**

For an Answer to Plaintiff's Complaint, Defendants, admit, deny and allege as follows:

(ANSWER)

1.

Defendants admit the allegations contained in paragraphs 1, 2 and 3 of Plaintiff's
Complaint.

2.

In response to paragraph 4 of Plaintiff's Complaint, Defendants admit they paid Plaintiff
\$6,000.00 on the balance due under the parties' First Agreement. Defendants further admit the
parties entered into a Second Agreement which was attached to Plaintiff's Complaint as Exhibit

1 "B," and that the Second Agreement obligated Defendants to perform certain demolition,
2 remodeling, and construction services for Plaintiff, as set forth in Exhibit "B" to Plaintiff's
3 Complaint. Except as expressly admitted herein, Defendants deny the allegations contained in
4 paragraph 4 of Plaintiff's Complaint.

5 3.

6 Defendants deny paragraphs 5 and 7 of Plaintiff's Complaint.

7 4.

8 In response to paragraph 6 of Plaintiff's Complaint, Defendants allege they performed
9 all the demolition, construction, and remodeling services, and provided all materials required
10 of them by the terms of the parties' Second Agreement, and that all labor and materials provided
11 by Defendants were of reasonable quality and workmanship. Except as expressly alleged herein,
12 Defendants deny the allegations contained in paragraph 6 of Plaintiff's Complaint.

13 For an AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, Defendants allege
14 as follows:

15 **(PAYMENT/SATISFACTION OF OBLIGATION)**

16 5.

17 Defendants reallege and incorporate by this reference those matters admitted and alleged
18 in their Answer hereinabove.

19 6.

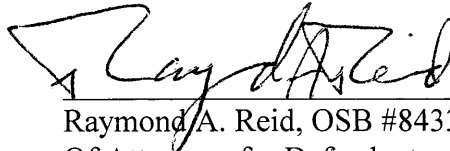
20 The payment made by Defendants to Plaintiff, and the demolition, construction and
21 remodeling labor and materials provided by Defendants to Plaintiff fully paid and satisfied
22 Defendants' obligations to Plaintiff under the parties' Agreements.

1 WHEREFORE, Defendants pray for judgment as follows:

- 2 1. Having fully answered Plaintiff's Complaint, Defendants pray that Plaintiff take
3 nothing thereby, and for an award of Defendants' costs and disbursements
4 incurred herein, and an award of reasonable attorney fees incurred by
5 Defendants pursuant to ORS 46.465(4)(a).

6 DATED this 27th day of March, 2006.

7 LAW OFFICES OF DAVID HILGEMANN
8
9

10 
11
12

Raymond A. Reid, OSB #84331
Of Attorneys for Defendant

13 Trial Attorney: David A. Hilgemann, OSB #72121
14

STATE OF OREGON
MARION COUNTY COURTS

SEP 19 2006

ENTERED #8

FILED
SEP 14 2006
Marion County Circuit Court

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

WILLABYS CATERING, INC., an)
Oregon corporation,)

Plaintiff,)

vs.)

CHUCK and SALLY SIDES,)

Defendants.)

Case No. 06C-11833

**STIPULATED JUDGMENT
OF DISMISSAL**

It is hereby stipulated as evidenced by the signatures below, by and between Plaintiff Willaby's Catering, Inc. and Defendants Chuck and Sally Sides that the above captioned shall be and is dismissed with prejudice and without attorney fees or costs to any party.

DATED this 13 day of September, 2006.


Circuit Court Judge

Stipulated Judgment of Dismissal (Willabys Catering, Inc. v. Chuck & Sally Sides)